

stem.

1.11 Insurance. Company, at its own cost and expense, shall maintain and cause its contractors and subcontractors that perform any obligation of Company under this Agreement to maintain in full force and effect for the term of this Agreement the following policies of insurance:

Commercial General Liability Insurance on an "occurrence" basis against all claims for Personal Injury, Bodily Injury and Property Damage liability for a combined single limit of not less than \$1,000,000.

1.12 Waiver of Subrogation. Each party hereto waives all claims that may arise in its favor and against the other party, or anyone claiming through or under them, by way of subrogation or otherwise, during the term of this Agreement.

Section 2: Owner's Obligations.

2.1 Grant of License. The Owner hereby grants to Company the following rights, subject to termination as provided herein:

- (a) The right to provide the Television Services to Tenants, subject to the right of the tenants to obtain such service as they deem needed.
- (b) The right for Company, its agent or employees to solicit Tenants at reasonable times and in a reasonable manner as approved by Owner.

Owner agrees that Owner shall not, during the term of this Agreement, grant any other service provider, the right or license to provide Television Service to the Property.

2.2 Property Access. For the term of this Agreement, Owner hereby grants to Company, a non-exclusive license to access to common areas within the Property at reasonable times and in a reasonable manner to accomplish the obligations of Company under this Agreement.

2.3 Owner's Obligation on Sale of Property. Upon voluntary sale of the Property to a third party that is unaffiliated with Owner, Owner shall cause the new Owner of the Property to assume all of the

Owner's obligations under this Agreement.

2.4 Notice of Agreement. Owner shall deliver a copy of this Agreement to any purchaser of the Property.

Section 3: Term.


3.1 Length. Subject to earlier termination upon an Event of Default or otherwise as provided in this Agreement, this Agreement shall remain in full force and effect for ten (10) years from the date hereof (the "Term"), plus another option for five (5) years.

3.2 Default. The following are "Events of Default" under this Agreement:


- (a) Owner or Company fails to meet, comply with, or perform any term, provision, covenant, agreement or obligation under this Agreement, within
- (b) If Company fails to fully repair a Major Problem, within thirty (30) days.

3.3 No Partnership or Joint Venture. Nothing contained herein shall be deemed to create a joint venture or partnership between the Parties.

IN WITNESS WHEREOF, and intending to be bound hereby, the Parties hereto have executed this Agreement on the 1st day of January, 1996.



Casa/Orlando Apartments
Medlock Southwest
Management Corp.
Mr. Bobby Griffith



Heartland Wireless of Lubbock
David Glenn, General Manager

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

1

HEARTLAND WIRELESS OF LUBBOCK
CHANNEL LINEUP
Lubbock, TX

CASA ORLANDO APARTMENTS

ESPN
DISCOVERY
KTXT (PBS)
CNN
USA
EWTN
TNN
CNBC
KCBD (NBC)
TNT
KLBK (CBS)
FAMILY CHANNEL
CMT
DISNEY
WEATHER CHANNEL
NICKELODEON
A & E
TBS
KMAC (ABC)
KJTV (FOX)
KAN (IND)
TELEMUNDO
UNIVISION

PREMIUM CHANNELS

****SHOWTIME****

HBO

Cinemax

Pay per view

Prime Sports

WGN

CARTOON



COMMERCIAL RIGHT OF ENTRY AND CABLE TELEVISION AGREEMENT

This agreement (hereinafter "Agreement"), is made and entered into this 29th day of May, 1996, by and between TVMAX Telecommunications, Inc., a wholly-owned subsidiary of OpTel, Inc., a Delaware corporation ("COMPANY"), and Century Quality Management, a _____ ("OWNER").

RECITALS

WHEREAS, OWNER is constructing or owns a multi-family apartment development designed to contain 83 apartment units to be known as El Conquistador ("Property"), located at 15005 Sherman Way, Van Nuys, California 91405, on property more particularly described in Exhibit "A", attached hereto and incorporated by reference;

WHEREAS, COMPANY is in the business of cable television services such as basic, expanded basic, premium channels, and other cable service either offered now or in the future; and

WHEREAS, OWNER desires to have COMPANY construct, operate and maintain a private cable system (the "System"), at the Property with the features described in this Agreement for the use and enjoyment of the Property's tenants and occupants ("Residents"), upon the terms and conditions hereinafter set forth:

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I - General Provisions

1.01 General. Subject to the terms of this Agreement, COMPANY agrees to install the System and provide cable television services to Residents who enter into subscriber agreements with COMPANY (the "Subscribers"). This Agreement and any amendments thereto, are irrevocable, and the exclusive right of access provided herein and other terms hereof shall run with the land. If the Property is converted to condominiums, OWNER shall include a reference to this Agreement in the condominium covenants and ensure that all purchasers receive actual notice of this Agreement and its terms.

1.02 Services. COMPANY shall offer the cable television services listed herein ("Services") to Subscribers during the term of this Agreement. COMPANY and OWNER agree that during the term of this Agreement, COMPANY may offer Residents other telecommunication and cable television services. These other services shall be deemed to be part of the Services.

1.03 **Exclusive Agreement** OWNER hereby grants COMPANY, and its authorized representatives or contractors, the exclusive right (a) to provide the Services at the Property and to construct, install, inspect, maintain, audit, repair, replace, service or operate the System on the Property, and, (b) to provide cable television, satellite master antenna service, master antenna service, direct broadcast satellite, broadband telecommunications, or any other type of pay television programming services to Residents of the Property including, but not limited to, basic, premium and pay-per-view cable services.

1.04 **Term of Agreement** This Agreement shall remain in effect for a term of fifteen (15) years from the date the System begins transmission of the Services to Residents (the "Effective Date"), and shall be automatically renewed for an additional five (5) year period unless COMPANY is in material breach.

1.05 **Transmission of Signal** COMPANY reserves the right to retransmit all signals from any signal reception equipment located on the Property to any other site of a third party.

1.06 **Conditions Precedent to Acceptance of This Agreement by COMPANY.**

(a) COMPANY shall be provided with a period of ninety (90) days from the date of execution of this Agreement to review and approve (or disapprove) any and all matters relating to the Property, including but not limited to, laws and regulations, plans, contracts, documents, and a physical inspection of the Property. Within ninety (90) days of the date of execution of this Agreement, Company may decide, in its sole discretion, to terminate this Agreement based on the results of its review of any aspect of the Property.

(b) Within such ninety (90) day period and prior to commencing installation, COMPANY must satisfy itself that it will be able to perform its obligations as set forth in this Agreement and that such performance will not interfere with or transgress upon the rights of third parties including, but not limited to, the rights of public utilities or other public authorities. If within said ninety (90) days COMPANY determines that it will be unable to install and operate the System, and if such inability is curable by OWNER, OWNER shall have the option but shall not be obligated to cure the problem. If a cable contract currently exists at the Property, COMPANY shall begin its performance upon the expiration or earlier termination of such contract and the ninety (90) day period shall be changed to the date such performance begins. The commencement of installation shall be considered to be full acceptance of this Agreement by COMPANY and its agreement to be bound by all terms and conditions of this Agreement;

(c) COMPANY may use 18GHz microwave technology to provide communications signal to the Property. COMPANY has the right, at its sole discretion, to substitute a different technology to provide communications signal to the Property.

ARTICLE II - System Installation and Maintenance

2.01 Right of Entry and Access to The Property. OWNER hereby grants to COMPANY, and its authorized representatives or contractors, a "Right of Access" to the Property, including all individual units and common areas, at reasonable times and upon reasonable notice to OWNER or to the Property's manager for such purposes. If requested by a Resident of an apartment unit and with written authorization from such Resident, OWNER will provide access to that Resident's apartment unit for installation or repair of the Equipment by COMPANY. Said Right of Access granted by OWNER shall be in the form set forth in Exhibit "B" hereto and shall be recorded in the public records. Upon termination of this Agreement, COMPANY and OWNER shall execute and cause to be recorded a release of the Right of Access previously recorded.

In addition, OWNER agrees that it will provide, at its own expense, an enclosed control room area on the Property, for the purposes of installing and operating the System. The location of the control room shall be mutually acceptable to the parties hereof. OWNER will further provide adequate electrical power service to the control room for the operation of the System. OWNER will be responsible for payment of the electrical services provided to the control room.

2.02 Wiring within apartment units. Should it be necessary to install or move wiring within an individual apartment, or to add or change equipment locations at the request of a Subscriber, this request shall be provided to COMPANY. COMPANY will, in turn, bill the Subscriber requesting such work on a time and materials basis. Such wiring work will be in accordance with industry and regulatory standards such that the wiring will be compatible with any local services that are required to operate such wiring system.

2.03 System Installation COMPANY shall provide and install all appropriate equipment and wiring necessary for the professional and efficient provision of the Cable Television Services listed in this Agreement, including all appropriate microwave and/or satellite-receiving equipment and hardware to provide for signal reception, transmission and relay of cable programming to Residents. The System design will be in accordance with industry and regulatory standards such that the System will be compatible with any local services that are required to operate the System.

2.04 Permit and Licenses COMPANY shall obtain and keep in force all permits, licenses, franchises and approvals necessary for it lawfully to perform its obligations under this Agreement in accordance with all applicable federal, state and local laws, ordinances and regulations.

2.05 Maintenance, Repair. COMPANY will at all times during the term of this Agreement keep the System in a good state of repair.

2.06 Sub-contract COMPANY at its own discretion may sub-contract necessary installation and/or maintenance of the System; provided, however, that COMPANY shall be and remain responsible for all of its obligations hereunder.

2.07 **Repairs to Property.** COMPANY shall be responsible for all repairs, patching, and corrections necessary in or about the Property, made necessary by COMPANY's installation or maintenance of the System or the performance of their obligations hereunder.

2.08 **Force Majeure.** Except as otherwise expressly provided in this Agreement, this Agreement may not be terminated because the other party is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Agreement by reason of strike, other labor strife, governmental preemption or priorities or other controls in connection with a national or other public emergency, acts of God or any other cause beyond that party's reasonable control.

ARTICLE III - General Covenants

3.01 **Use of Property.** OWNER does hereby grant without charge to COMPANY, an easement for access to the Property, and use of suitable and adequate space to enable COMPANY to install, operate, maintain and protect the System, including without limitation the use and occupancy of suitable space for installation of signal reception and processing equipment.

3.02 **Electrical Power: OWNER Equipment.** OWNER shall supply at its expense the electrical power necessary to operate the System and related equipment and OWNER shall be solely responsible during the term hereof for providing and maintaining the electrical support equipment in good working order.

3.03 **Lender Consent.** OWNER agrees that it shall have obtained and delivered to COMPANY a Lender Consent, duly executed by any and all lenders holding a security title or lien upon the Property or any of its individual units. Such Lender Consent shall be in the form of Exhibit "C" attached hereto.

3.04 **Indemnity.** COMPANY agrees to indemnify and hold OWNER harmless from any liabilities, claims, damages, costs and expenses arising or resulting from COMPANY's installation, operation, maintenance or repair of its System, except those resulting from the intentional acts or gross negligence of OWNER, its agents or employees. Any damage to any System or loss to COMPANY resulting from the intentional acts or gross negligence of OWNER or its agents or employees shall be the responsibility of OWNER and OWNER agrees to indemnify and hold COMPANY harmless from liabilities, claims, damages, costs and expenses arising or resulting therefrom.

3.05 **Insurance.** COMPANY agrees to maintain general liability insurance for the System in the minimum sum of One Million Dollars (\$1,000,000) for the term of this Agreement.

3.06 **Initial Service Support.** Upon the execution hereof, OWNER agrees to furnish to COMPANY a list of all Residents which shall include the Resident's name, living unit designation, and telephone number or as much of this information as is permitted by Texas law. OWNER further agrees to notify COMPANY of any changes to such list; in no event shall OWNER be obligated to provide such information more often than once every month.

3.07 Service Sales Support OWNER grants to COMPANY, its agents or employees, the right to solicit Residents of the Property at all reasonable times to subscribe to its Services provided that on-site solicitation shall be conducted only with the prior approval of the on-site manager of the Property. OWNER agrees to make reasonable efforts to advise Residents of the availability of COMPANY's television services, by providing Residents with standard brochures and materials most recently provided by COMPANY, to notify COMPANY when new Residents move in or out of the Property, to make available to COMPANY, upon request, a monthly report of the then current occupancy, and to take the application of any Resident of the Property who desires to initiate cable television Services and fax it to COMPANY.

3.08 Promotional Materials Subject to prior consultations with OWNER, OWNER shall permit COMPANY to distribute its promotional materials directly to Residents through door-to-door distribution or other direct marketing efforts. In addition, OWNER shall permit COMPANY to set up a table or small booth in a central common area to sign up subscribers, distribute marketing materials and provide other transitional services.

ARTICLE IV - Payments

4.01 Compensation COMPANY agrees that its sole compensation will be the total gross receipts (as herein defined) from the operation of the System, paid by individual Subscribers of the Property. As used herein, the term "Total Gross Receipts" shall mean all amounts received by COMPANY for the provision of the System, including but not limited to the monthly charges for all services, including installation charges and fees charged for service calls. COMPANY shall be responsible for the billing and collection of all revenues arising from the services and the operation of the System. COMPANY shall remit to OWNER on a quarterly basis, an amount equal to a percentage of Total Gross Receipts, as set forth on the below schedule, payable within sixty (60) days of the end of each quarter (the OWNER's Participation"). In the event that for any reason any other provider of the Services provides such Services to the Property, without limiting any other remedy of COMPANY, COMPANY shall not be required to pay the OWNER's Participation.

<u>Percentage of Apartment Units Receiving Service (Penetration Rate)</u>	<u>Percentage of Total Gross Receipts Payable to OWNER</u>
less than or equal to 60%	6%
greater than 60% but less than or equal to 80%	8%
greater than 80%	10%

In addition, COMPANY will provide OWNER with a property information channel and shall install two closed circuit cameras ("Monitoring System") at the Property, free of charge. COMPANY shall not be responsible for maintaining or monitoring the Monitoring System and shall not be responsible for any aspect of security for the Property. OWNER releases COMPANY

of any and all liability related to any aspect of security for the Property. OWNER shall indemnify, defend and hold COMPANY harmless from any and all claims relating to the Monitoring System.

4.02 Resident Payments. Subject to adjustment as hereinafter provided, Residents shall pay COMPANY each month during the term of this Agreement for the Services provided by COMPANY. Any Subscriber who contracts for service may elect to subscribe to one or more of the additional features then being offered as part of the Services. The rates for the Services are subject to change during the term of this Agreement; however, no downward adjustment shall be made on any rate unless COMPANY believes it necessary to meet competition in the immediate vicinity of the Property.

Both parties agree that COMPANY has the right to terminate all Residents' Services for failure to pay any Service fee to COMPANY.

4.03 Modification of Charges. COMPANY shall have a right to reasonably modify charges by providing OWNER and Residents thirty (30) days written notice.

ARTICLE V - Ownership and Control

5.01 Ownership. With the exception of OWNER's Equipment, the System, including all wiring, electronic equipment, antennas, cable, amplifiers, filters, traps, and converters and other signal receiving, scrambling, and decoding equipment, and all System modifications, are and shall at all times remain the property of COMPANY. Neither OWNER nor any third party shall have any right, title, or interest in the System except for the right defined herein and the right to receive services as set forth in this Agreement.

5.02 Control. OWNER shall not allow the System to be used for any purposes other than in COMPANY's regular course of providing services for the use of Residents under the terms and conditions of this Agreement. OWNER shall not make or allow to be made any modifications, alterations, or additions to the System except as allowed in writing by COMPANY.

5.03 Assignability. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be transferred, assigned and/or pledged as security by either COMPANY or OWNER at any time during the term of this Agreement without the consent of the other party hereto; provided, however, that in the event OWNER sells, conveys, deed or in any manner transfers ownership to the Property, OWNER shall cause the transferee to assume this Agreement, this Agreement shall be binding on said transferee and prior to the close of any transfer, OWNER shall notify COMPANY of the pending transfer. In addition, OWNER shall notify COMPANY prior to any filing, of a petition in bankruptcy by OWNER or the commencement of any foreclosure proceedings against the Property.

ARTICLE VI - Dispute Resolution/Termination

6.01 Dispute Resolution In the event either party to this Agreement believes there has been a breach of the Agreement, the party alleging a breach shall notify the other party in writing specifying what provision in the Agreement it believes has been breached, and setting forth the specific act(s) of the alleged breach. The party alleged in breach shall have ninety (90) calendar days from the receipt of notice to: (1) resolve the breach or (2) respond to the notice in writing contesting the alleged breach. In the event the breach cannot be resolved within ninety (90) days, the responding party shall so advise the notifying party and shall also provide the specific actions being taken to resolve the breach and the time frame in which it is expected to be resolved.

6.02 Arbitration In the event that a disputed matter cannot be resolved under the terms of Section 6.01 hereof, then, both parties hereby agree to exclusively submit such disputed matter to binding arbitration in the County of Dallas, State of Texas, in accordance with the commercial arbitration rules of the American Arbitration Association.

6.03 Termination In the event the party in breach fails to resolve the breach as directed by the decision of the arbitrators within thirty (30) days of their decision or other time frame as modified by the arbitrators or agreed upon by both parties as provided in paragraph 6.01 above, then by providing written notice to the party, the Agreement may be terminated for cause.

6.04 Disposition of System Upon Termination Upon termination or expiration of this Agreement, OWNER and COMPANY shall mutually determine Fair Market Value of the System. Provided OWNER is not in default under the terms hereof, OWNER shall have the option for thirty (30) days after termination or expiration of this Agreement to purchase the System from COMPANY for the Fair Market Value and in the event OWNER exercises such option, COMPANY shall execute all documents necessary to evidence the conveyance. In the event Owner does not exercise its option to purchase, COMPANY shall have the right, for a period of sixty (60) days after the date of termination or expiration, to remove the System from the Property. COMPANY shall repair any damage to the Property resulting from the removal of the System. Any of the System remaining in the Property, including all wiring, after the expiration of sixty (60) days from termination or expiration of the Agreement shall become the property of OWNER.

ARTICLE VII - Miscellaneous

7.01 Representations and Warranties OWNER hereby represents and warrants to COMPANY that: (a) this Agreement has been duly authorized, executed and delivered by OWNER and constitutes the legal, valid and binding obligation of OWNER enforceable in accordance with its terms; (b) no consent or approval of any other person or entity to the execution, delivery, performance or enforceability of this Agreement is required; (c) there is no pending or threatened litigation affecting or which might reasonably be expected to affect OWNER's title to the Property; (d) neither the execution of this Agreement nor the performance of the obligations contained herein by OWNER will conflict with or result in a breach of the terms, conditions or provisions of or constitute a default under any document to which OWNER is a party; and (e) there are no cable contracts or other broadband communications contracts affecting the Property. In the event that any of the representations set forth above are untrue, then, without limiting any remedies that may be available to COMPANY, COMPANY, at its sole option, may terminate this Agreement and OWNER shall reimburse to COMPANY any and all advances or upfront fees paid within ten (10) days after such termination.

7.02 No Liens OWNER shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on the System.

7.03 Governing Law This Agreement shall be governed and interpreted by the laws of Texas

7.04 Authority Each party represents and warrants that it has full power and authority to enter into and perform this Agreement.

7.05 Entire Agreement This Agreement, together with all Exhibits and Addenda attached hereto, constitutes the entire agreement between the parties and supersedes all negotiations, prior discussions, representations, statements or understandings, whether oral or written, with respect to the subject matter hereof. Where any part of this Agreement may be viewed as contradictory or inconsistent with any part of the attached Addenda, the latter shall supersede the former. This Agreement may not be modified, amended or replaced, except by written agreement signed by both of the parties hereto.

7.06 Waiver Each party reserves the right, from time to time, to waive enforcement of any terms and conditions of this Agreement. No waiver by a party of any term or condition of this Agreement shall constitute a waiver by such party of any prior, concurrent or subsequent breach or default of the same or any other term or condition of this Agreement.

7.07 Severability If any provision of this Agreement shall be held to be indefinite, invalid or otherwise unenforceable, the entire Agreement shall not fail on account thereof, and the remainder of this Agreement shall continue in full force and effect.

7.08 Headings. Any section, paragraph or other heading contained in the Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

7.09 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original and that all such counterparts shall constitute one and the same instrument.

7.10 Attorneys Fees. In the event of any dispute, arbitration or litigation between the parties concerning this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorney fees and costs.

7.11 Terminology. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, female or neuter, as the context or sense of this Agreement or any portion thereof may require, as if such words had been fully and properly written in the appropriate number and gender.

7.12 Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7.13 Notices. All notices, claims, requests, demands and other communications under

this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed to the address set forth below:

TVMAX Telecommunications, Inc.,
1111 W. Mockingbird, Ste 1130
Dallas, Texas 75247
Attn: General Counsel

Century Quality Management
4221 Wilshire Boulevard
Los Angeles, CA 90010
Attn: Mr. Sam Menlo

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

TVMAX Telecommunications Inc.,
a Delaware corporation

By: 

Its: Executive Vice President

Century Quality Management,

a _____

By: 

Its: _____

Post-it® Fax Note		7671	Date 7-9-96	# of pages 18
To SCOTT BUSCH		From JEFF FOX		
Co./Dept.		Co.		
Phone #		Phone #		
Fax #		Fax #		

AGREEMENT FOR BULK CABLE TELEVISION SERVICE

This agreement for Cable Television Service is dated as of this _____ day of _____, 19____, by and between Allington Towers South Condominium Association, Inc., a Florida corporation ("Association"), and TVMAX Telecommunications, Inc., a Delaware corporation, a wholly-owned subsidiary of OpTel, Inc. ("COMPANY").

RECITALS

- A. **WHEREAS**, Association is legal entity which is responsible for the operation of that certain real property commonly know as Allington Towers South Condominium Association, Inc. consisting of 187 units located at 1600 South Ocean Drive. Hollywood, Florida 33021 and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property");
- B. **WHEREAS**, the Property is currently receiving cable service from TCI of Hollywood, Inc. (the "Existing Provider");
- C. **WHEREAS**, COMPANY is in the business of providing cable television services such as basic, expanded basic, premium channels, and other cable service either offered now or in the future; and
- D. **WHEREAS**, Association desires to have COMPANY construct, operate and maintain a cable system (the "Central System"), at the Property with the features described in this Agreement for the use and enjoyment of the Property's tenants and occupants ("Residents"), upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. SCOPE OF WORK

(a) COMPANY agrees to do all things necessary to construct, install and maintain the Central System including all transmission wires, cables, conduits, amplifiers, junction boxes, trunk distribution, drop cables, dishes and related apparatus and electronic equipment, both active and passive as may be required to enable COMPANY to supply and maintain cable television service to the Property. All portions of the Central System which are installed by COMPANY, including but not limited to, equipment, wires, cables, conduits, amplifiers, junction boxes, trunk distribution, drop cables, dishes and related apparatus and electronic equipment, both active and passive, shall remain the personal property of COMPANY. The cable television service to be provided hereunder includes television programming of all types. COMPANY's right hereunder shall include the right to supply such programming by cable, over-the-air transmission, by

satellite, or by any other means which may become technologically feasible in the future. COMPANY may also, where technology and system capability permit, provide all related cable services thereto including, but not limited to, pay-per-view services, and other television services. All programming and/or services described in this paragraph shall hereinafter be referred to as "CATV Services".

(b) COMPANY shall have the right to provide CATV Services to the individual units on the Property on an exclusive basis to the fullest extent permitted by law. Said exclusive right shall be for a period of SEVEN (7) years, commencing with Effective Date of this Agreement. The "Effective Date" of this Agreement shall be the date service is first activated at the Property. COMPANY is further granted a non-exclusive right, where technology and system capability permit, to provide one-way and two-way transmission of data and signals from any and all sources, hereinafter referred to as "Ancillary Cable Services," to the Property.

(c) Company shall main and upgrade the System as necessary to keep the System in good and operating condition and substantially current with widely prevalent technologies being operated by other full service providers of cable television for other "Comparable Projects". As used herein, "Comparable Projects" shall mean those multi-unit residential projects comparable in quality and size to the Property that lie within the market area of the Property; provided, however, that the foregoing shall not hold Company to a standard based on providers who are providing technologies that are unique, proprietary or experimental or not otherwise being generally provided on a commercially reasonable basis to other Comparable Projects.

2. INDEMNITY AND INSURANCE.

To the fullest extent permitted by law, COMPANY shall indemnify, defend and hold harmless the Association its directors, officers, members, agents and employees against any and all claims, liabilities, demands, actions, causes of action and suits whatsoever, in law or in equity, including such parties' own negligence, but excluding such parties' fraud or intentional or willful misconduct, for damages, penalties, fines, loss, personal injury, death, injury to property including loss of use thereof, injury to intellectual or intangible property and rights therefrom including loss of use thereof, costs and expenses including reasonable attorney's fees, arising out of or concerning this Agreement, or caused by, arising out of, or in any way related to the installation, maintenance, operation or removal of the cable television equipment, or use, attempted use, possession or removal of the cable television equipment, including wiring, located on or serving the Association's or condominium Property prior to the execution of this Agreement, all of the above including acts or omissions of any Subcontractor or anyone whose acts any of them may be liable. COMPANY shall obtain, and maintain for the duration of this Agreement, contractual liability insurance, naming the Association as a named insured, on a primary basis, in an amount not less than One Million and No/Dollars (\$1,000,000.00). This indemnification shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Agreement. In any and all claims against the Association or any of its members, directors, officers, agents or employees by any employee of COMPANY, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Agreement shall not be limited in

any way by limitation on the amount or type of damages, compensation or benefits payable by or for COMPANY or any Subcontractor under workers' or workmen's compensation acts, disability benefits acts or other employee benefit acts. The parties hereto specifically acknowledge and agree, pursuant to Florida Statute, Section 725.06(2), that a portion of the consideration given by the Association to COMPANY pursuant to the terms hereinabove in the specific amount of Ten Dollars and No/100 (\$10.00) for each year of this Agreement is specific consideration to COMPANY for indemnification provided for in this Agreement, which indemnification shall survive the completion of the work hereunder and the termination of this Agreement. Neither the contractual liability insurance nor any other insurance required by COMPANY under this Agreement or by law shall constitute a cap or limitation of COMPANY's liability. In the event COMPANY shall breach or violate this provision, the Association shall be entitled to withhold any and all payments/moneys due to COMPANY and to pursue other remedies at law and equity. The remedies provided for herein shall be cumulative and in addition to any other remedies the Association may have against COMPANY.

It is understood that COMPANY may be using subcontractors in the course of this Agreement and that a requirement of this Agreement is for all subcontractors to have insurance equal to that of COMPANY, listing COMPANY as an additional insured. Such Certificate of Insurance shall be provided to the Association for approval prior to the arrival of the subcontractor on the job site, and prior to the commencement of any work by the subcontractor

3. PAYMENT PROVISIONS AND ADDITIONAL SERVICES

- A. COMPANY agrees to provide Association for the term of this Agreement with Bulk Billed CATV Service, hereinafter referred to as "Bulk CATV Service," commencing on the Effective Date.
- B. Bulk CATV Service shall consist of the programming set forth on the attached Exhibit "B" which is incorporated by reference herein. COMPANY reserves the right to change the channel line up in Exhibit "B" for Bulk CATV Service in any way, including, but not limited to, deleting or adding channels or services; provided that COMPANY shall provide at least the number of channels set forth on Exhibit "B". COMPANY shall use its best efforts to maintain the mix and quality of the channels/programming listed. Reasons for changed or deletions in channels includes, but is not limited to, compliance with local, state or federal regulations, contractual chances or obligations, marketing considerations, and technical limitations.
- C. The total number of serviceable individual units contained in the Property which is the subject matter of the Bulk CATV Services section of this Agreement as of the date hereof is 187 units located within the Property. For billing purposes 187 units will be the basis of the bill.

D. Commencing on the date when COMPANY commences providing Bulk CATV Services to the Property, Association agrees to pay COMPANY's monthly rate for Bulk CATV Service, subject to the terms and conditions contained herein. COMPANY's monthly rate for Bulk CATV Service shall be Thirteen Dollars (\$13.00) per unit per month, plus applicable tax, due and payable on or before the first (1st) day of each month.

<u>Term Year</u>	<u>Bulk CATV Service</u>	<u>Fee</u>
Year 1 (commencing on Effective Date)	Basic & Expanded Basic Sundance & FLIX	\$13.00 FREE
Year 2	Basic & Expanded Basic Sundance & FLIX	\$13.40 \$ 1.00
Year 3	Basic & Expanded Basic Sundance & FLIX	\$13.82 \$ 2.00
Year 4 - 10	Basic & Expanded Basic Sundance & FLIX	\$14.24 ** \$2.00

** Fee for Bulk CATV Service during Year 4 will be \$14.24, thereafter Bulk CATV Service Fee shall increase by 3% each year effective on the first day of each year of the term of this Agreement.

E. COMPANY agrees that the rate paid by the Association shall not be any higher than any tariffed rate allowed by law. In the event the FCC tariffs regulating the cost of cable television service come into effect during the term of the Agreement, the monthly rate to be charged to the Association under the Agreement shall be the rate presently stated in the Agreement or the tariff rate, whichever is lower. Upon request by individual Residents, COMPANY may provide cable television service in addition to the Bulk CATV Service (the "Ancillary Services") Such Ancillary Services may include, but are not limited to, premium channels and pay-per-view services. Residents shall pay COMPANY each month during the term of this Agreement for the Ancillary Service provided by COMPANY. Any Resident who contracts for Ancillary Services may elect to subscribe to one or more of the additional features then being offered as part of the Ancillary Services. The rates for the Ancillary Services are subject to change during the term of this Agreement; however, no downward adjustment shall be made on any rate unless COMPANY believes it necessary to meet competition in the immediate vicinity of the Property. Both parties agree that COMPANY has the right to terminate all Ancillary Services to a Resident for Failure by such Resident to pay any fee owed to COMPANY.

- F. As an additional consideration of this Agreement, Company will pay Association \$60 per unit (the "Licensing Fee") as a licensing fee. Fifty percent of the Licensing Fee will be paid to Association on the date thirty days after the date this Agreement is fully executed by the parties (and following the date this Agreement is approved or deemed approved (as provided by Section 718.115 of the Florida Condominium Act of 1995) by the members of Association at its next board meeting). The remaining fifty percent of the Licensing Fee will be paid to Association within ten days after the date the System is activated on the Property. If any representation or warranty of Association contained in this Agreement is untrue or if any other provider has a pre-existing right to provide any of the Services to the Property and such right does not expire or Association does not lawfully terminate such right prior to the date Company schedules activation of the Services, then Association shall forfeit and immediately return the Licensing Fee to Company.

4. DAMAGE TO PROPERTY.

COMPANY agrees that any construction, reconstruction, maintenance, repair or other work to be performed to complete the scope of work referred to above will be performed at its own expense and COMPANY will repair and/or replace in kind any damage of whatever kind or character whether publicly or privately owned including the property of Association which may result from its operations under this Agreement, including any actions of any subcontractor or other employee who is on the Property in conjunction with this Agreement.

COMPANY agrees to take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to all employees of COMPANY and other persons who may be affected thereby, all the materials and equipment to be installed therein, and other property on the Property or adjacent thereto.

5. LAWS, ORDINANCES, PERMITS AND LICENSES.

COMPANY agrees to comply with all applicable laws, ordinances, governmental regulations and state statutes and will obtain and pay for all required permits and license and will make all contributions with the respect to employment required by such applicable laws, ordinances and governmental regulations. COMPANY agrees to be responsible for and shall indemnify, defend and save Association harmless from and against all damages and liabilities which may arise out of the failure of COMPANY to obtain and pay for any such licenses and permits or to comply fully with any and all applicable laws, ordinances and regulations. Within three (3) days of when the Association learns of any such matter covered by this section which would require COMPANY to defend Association, Association shall provide written notice to COMPANY of same.

In the event any repairs, modifications, or replacements to the Central System or any equipment necessary for services become necessary because of FCC regulations, now or in the future, such repairs, modifications or replacements shall be made by COMPANY, at its sole expense.

6. INSTALLATION OF THE CENTRAL SYSTEM.

- A. COMPANY agrees to furnish all equipment, materials, supplies, labor and supervision necessary to service and maintain the Central System. Association agrees that the locations and placement of existing equipment is accepted and permitted in their current locations.
- B. COMPANY agrees that the time, method and manner of installation, amounts, types, location and placement of any portion of the Central System changed after the Effective Date of this Agreement, shall be subject to the prior approval of the Association, which approval shall not be unreasonably withheld or delayed. In connection with any construction, installation or maintenance of the Central System, COMPANY shall use its best efforts to minimize the inconvenience to Residents of the Property. COMPANY shall provide twenty-four (24) hours notice to Association of work to be completed which is non-emergency in nature. Such notice may be in the form of a telephone call to the Association or on-site manager and need not be in writing.
- C. Association agrees to provide, without charge to COMPANY, adequate space and electricity for its electronic equipment as well as right of access to the common areas at reasonable hours of the day for the express purpose of installation, connection, maintenance, marketing including, but not limited to, direct mail and telemarketing, and service for the Central System as required by authorized personnel of COMPANY, subject to Sections (B) above. COMPANY, however, shall not engage in door-to-door solicitation.
- D. COMPANY is authorized to install such electronic equipment as it deems necessary to provide CATV Services and Ancillary Cable Services, provided it receives prior consent from the Association, said consent not to be unreasonably withheld, subject to Section (B) above.
- E. COMPANY agrees to maintain and keep in a clean and neat condition all areas that Association provides for equipment and wiring. Property Information Channel and Monitoring System.
- F. COMPANY will provide Association with a property information channel and shall install two (2) closed circuit monitoring cameras ("Monitoring System") at the free of charge. COMPANY shall not be responsible for maintaining or monitoring the Monitoring System and shall not be responsible for any aspect of security for the Property. Association releases COMPANY of an and all liability related to any aspect of security for the Property. Association shall indemnify, defend and hold COMPANY harmless from any and all claims relating to the Monitoring SYSTEM.

7. INSTALLATION OF OUTLETS IN INDIVIDUAL UNITS.

- A. COMPANY agrees to provide the greater of (i) two (2) cable television outlets, or (ii) the current number of cable television outlets in each unit. All Residents shall have free installation available to them for said outlets during the first ninety (90) days after the commencement of service. If CATV converter boxes are required by a Resident, COMPANY will supply such converters to such Resident at no charge. Should an individual Resident require a converter box, the Resident will be required to pay to COMPANY a refundable deposit, the amount of said deposit to be in accordance with COMPANY's standard charge for CATV converter box deposits, said charge currently being Thirty- Dollars (\$30.00) per box as of the date of this Agreement. This deposit is to be returned to the Resident upon return of the converter box in good condition, ordinary wear and tear excepted. Association shall not be responsible for either the converters, monthly converter rental charges or the deposits of the individual Residents.

Upon request by individual Residents, COMPANY will provide additional outlets, in excess of the number provided under Paragraph 7(A) above, in said units at the standard installation charge and for the monthly rate for additional outlets then in effect for individual Residential subscriber in the County in which the Property is located. COMPANY reserves the right to change the installation charge and monthly rate for additional outlets from time to time, but in no event shall these charges exceed COMPANY's standard charges for installation and additional outlets then in effect for individual Residential subscriber in the County in which the Property is located. COMPANY shall bill individual Residents - directly and Association shall have no responsibility for said charges.

8. MAINTENANCE AND REPAIR

- A. COMPANY shall provide Residents with a toll-free customer service telephone number, which shall be staffed twenty-four hours per day, three hundred sixty-five (365) days per year to receive repair requests. COMPANY shall respond to emergency repair situations affecting more than ten percent (10%) of the units within four (4) hours of receipt of notice, excepting those instances when needed response or repairs would pose a safety threat to employees of COMPANY. COMPANY shall respond to non-emergency repair situations and commence repairs within twenty-four (24) hours of receipt of notice.
- B. Should, for any reason, COMPANY fail to meet the response and repair requirements of Paragraph 8.A above, Association shall be entitled to prorata credit if cable service is completely or partially interrupted for a period exceeding twenty-four (24) hours. Partial interruption is defined as five (5) or more channels being completely out of service for a period exceeding twenty-four (24) hours.

C. All work performed by COMPANY pursuant to this Agreement shall be performed in a good workmanlike manner. Except for emergency situations and service repair or installation of individual Residential units, all work shall be performed during normal daylight business hours.

9. PROMOTION OF SERVICES.

Association shall cooperate with COMPANY in its marketing the Services to Residents. Such cooperation shall not require that the Association take any affirmative actions.

10. ATTORNEY'S FEES.

In any action, proceeding, or litigation arising out of or concerning this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorney's fees and costs, through the appellate level. Venue for any action, proceeding or litigation arising out of or concerning this Agreement shall be in the City of Hollywood, Broward County, Florida and the parties expressly waive their right to venue elsewhere.

11. NOTICES.

All notices, (except those concerning service/repair, billing, or general questions, which shall be made directly via telephone by the unit Association or Association to COMPANY) requests, consents, and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, or mailed by registered or certified mail (postage prepaid), return receipt requested, addressed to the party to whom such notice is directed as follows:

If to COMPANY: c/o OpTel, Inc.
 111 W. Mockingbird Ln, Suite 1130
 Dallas, TX 75247
 Attn: General Counsel

with a copy to:

TVMAX Telecommunications, Inc.,
1250 E. Hallandale Beach Blvd. Suite 700
Hallandale, Florida 33009
Attn: General Manager